

### REMARKS

In response to the Office Action mailed June 22, 2009, Applicants have amended claims 1 and 8. Claim 8 has been canceled and no new claims have been added. The above amendments are not to be construed as acquiescence with regard to the Examiner's rejections and are made without prejudice to prosecution of any subject matter removed or modified by this amendment in a related divisional, continuation or continuation-in-part application. Following the amendments, claims 1, 4, 7, 9-11, and 16 are pending and under examination in the application.

### CLAIM REJECTIONS UNDER 35 U.S.C. §102(e)

Claims 1-4 and 7 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Casey *et al.* (WO01/48244; "Casey"). Specifically, the Examiner contends that Casey discloses the use of beads in an oligonucleotide-ligase assay format comprising: a first nucleic acid attached to a bead; a second nucleic acid with a fluorescent label and, at its 3' end, polymorphic bases, which are viewed as the 3' overhang; and a ligase. The Examiner further contends that the first nucleic acid comprises a second chemical moiety that is bound, via carbonyl bond formation, to a first chemical moiety conjugated to the bead.

Applicants respectfully traverse this basis for rejection and submit that Casey fails to anticipate the presently claimed invention because it does not teach each and every limitation of the claims.

Nevertheless, Applicants, without acquiescence and solely to expedite allowance, have amended claim 1 to include the limitations of claim 8. The limitations of claim 8 are not taught by Casey. Thus, claim 1 and all claims depending therefrom are novel in view of Casey. Reconsideration and withdrawal of this basis for rejection is respectfully requested.

### CLAIM OBJECTIONS

Claims 8-11 and 16 are objected to as being dependent upon a rejected base claim, but would otherwise be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants, without acquiescence, have

canceled claim 8 and incorporated the subject matter of claim 8 into claim 1. Thus, Applicants respectfully submit that claims 1-4, 7, 9-11, and 16 are allowable. Reconsideration is respectfully requested.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,  
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